

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:20-CR-212
	§	Judge Mazzant
DEBRA LYNN MERCER-ERWIN (1)	§	
KAYLEIGH MOFFETT (2)	§	
GUILLERMO GARCIA MENDEZ (3)	§	
FEDERICO ANDRES MACHADO (4)	§	
CARLOS ROCHA VILLAURRUTIA (5)	§	
ALBAN GERARDO AZOFEIFA-CHACON (6)	§	
AARON BELLO-MILLAN (7)	§	

**MOTION FOR AN ORDER TO HOMELAND SECURITY TO RETAIN BULK  
EVIDENCE AND NOT DESTROY CERTAIN CONTROLLED SUBSTANCES**

The United States of America, by and through the Assistant United States Attorney, Ernest Gonzalez, files this Motion for an Order directing Homeland Security Investigations to retain bulk evidence and not destroy certain controlled substances. In support of this motion, the United States submits the following:

The Department of Homeland Security (DHS) Homeland Security Investigations (HSI) has been investigating a narcotics smuggling operation under HSI case number Case Number - DA13CR19NO0017 and Seizure Number – 2022550100036201; Case Number - DA02VR20BV0001 and Seizure Number – 2022550100036301; Case Number - DA13CR21DA0007 and Seizure Number – 2022550100036001; and Case Numbers – BV07HR18BV0002 and DA07HR18BV0002 and Seizure number – 2020230100029601.

As a result of the investigation, federal agents seized several kilograms of cocaine. These

controlled substances were submitted via sample quantities for laboratory analysis to a Homeland Security Investigations/Customs and Border Protection (CBP) laboratory.

Homeland Security has a protocol in place that the agency will only maintain samples of bulk quantities of seized controlled substances at their laboratory. As part of the protocol, any quantities of controlled substances over the sample amount will be destroyed.

Per the protocol, Homeland Security Investigations will not destroy bulk evidence if the government secures a court order.

On May 5, 2021, a Fifth Superseding Indictment was returned by a Grand Jury charging the above-referenced defendants with conspiracy to manufacture and distribute cocaine (Count One); manufacturing and distributing cocaine intending and knowing that the cocaine will be unlawfully imported into the United States (Count Two); and conspiracy to import cocaine and to manufacture and distribute cocaine intending and knowing that the cocaine will be unlawfully imported into the United States (Count Three).

Jury trial is currently scheduled for July 18, 2022. The Defendants and their attorneys have a right to examine the evidence and perform independent testing if desired.

The destruction of the bulk quantities of controlled substances seized would interfere in the prosecution of individuals and with the discovery obligations of the government.

The United States requests this Court to order that HSI/CBP retain all of the bulk evidence controlled substances seized in this investigation.

Respectfully submitted,

BRIT FEATHERSTON  
United States Attorney

/s/ \_\_\_\_\_  
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**CERTIFICATE OF CONFERENCE**

I hereby certify that I have contacted the following defense counsel with their response noted below:

Carlos Garcia – unopposed

No other counsel has responded.

/s/ \_\_\_\_\_  
ERNEST GONZALEZ

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed via electronic filing on March 24, 2022.

/s/ \_\_\_\_\_  
ERNEST GONZALEZ